IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO. 637 OF 1986

A. Anil & Co., ... Plaintiff
VS.
Digvijay Industrial Corpn. And 4 ors. . ... Defendants

Mr. H. V. Chande for Plaintiff .
Mr. Panchamatia for Defendant nos. 1 and 4.
Ms. Mehta i/b. Pathak & Co., for Defendants 2, 3 & 5

CORAM: **D.G. KARNIK J**.

DATE: 15/6/2006

P.C.:

1. Heard learned counsel for the Plaintiff and the Defendant nos. 1 and 4 and for Defendants 2, 3 & 5. The Defendants have not filed the written statement. Counsel for the Defendants states that though an advance copy of the written statement was served on the Plaintiff in the year 2004 or thereabout, the written statement has not been filed. The suit was filed in the year 1986. The written statement has not been filed for nearly 20 years. No written application is made by the Defendants for permission to file written statement by condoning the delay. As held by the Supreme Court in the decision rendered in Kailash vs. Nanhku and ors. reported in

2005 (2) Mh. L. J. 775 no oral request to condone delay in filing the written statement by can be considered. Hence the oral request by the counsel for the Defendants for permission to file written statement is rejected.

2. The suit is for recovery of money. The Defendants have not filed their written statement. Hence suit of the Plaintiff is decreed under Order 8 Rule 10 CPC., in terms of the prayers in the plaint. The money already deposited in the court by the Defendants, along with the interest accrued, if any, be appropriated towards the decreetal amount.

(D.G. KARNIK J.)